

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 06-13662
Non-Argument Calendar

FILED U. S. COURT OF APPEALS ELEVENTH CIRCUIT November 30, 2006 THOMAS K. KAHN CLERK

D. C. Docket No. 04-00917-CV-J-32-MMH

SYLVESTER BUTLER,
KELVIN FRAZIER,
CURT MASSIE,
JEREMIAH THOMAS,
EUGENE E. ULRATH, et. al.,

Plaintiffs-Appellees,

versus

JAMES MCDONOUGH, in his
official capacity, et. al.,

Defendants,

JAMES WILSON, in his
individual capacity,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida

(November 30, 2006)

Before ANDERSON, BIRCH and FAY, Circuit Judges.

PER CURIAM:

This action is brought by a group of current and former inmates of the Florida Department of Corrections against multiple current and former correctional officers. This appeal involves only one of many rulings by the district court; to wit: the denial of the motion to dismiss filed by defendant/appellant James Wilson as to the allegations made against him by plaintiff/appellee Jeremiah Thomas. The basis of the motion to dismiss is qualified immunity. We agree with the district court that the allegations of the Second Amended Complaint are sufficient to withstand this motion.¹

AFFIRMED.

¹Of course, this ruling does not prevent the district court from revisiting the issue of qualified immunity after a full development of the evidence should the appellant present a motion for summary judgment.